

# HOUSE BILL 1446

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By: **Delegate Heller (Chair, Joint Committee on the Management of Public Funds) and Delegates Elmore, Howard, and Levy**

Introduced and read first time: February 25, 2010

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Bonds Supported by the American Recovery and Reinvestment Act**

3 FOR the purpose of authorizing the Board of Public Works to issue general obligation  
4 bonds and other evidence of indebtedness of the State or of a local government  
5 unit that are authorized under the American Recovery and Reinvestment Act  
6 (ARRA); authorizing the Board to provide for specific terms and conditions of  
7 the ARRA bonds; providing certain duties for the State Treasurer when the  
8 Board provides for the sale of ARRA bonds; providing that the Board may issue  
9 ARRA bonds to finance State projects that have been authorized by separate  
10 State enabling acts; providing that ARRA bonds issued to finance State projects  
11 shall be State debt for which the full faith and credit of the State shall be  
12 pledged; providing that the Board may issue ARRA bonds on behalf of local  
13 government units under certain circumstances and if certain conditions are met;  
14 providing that a local government unit may agree with the Board to pledge any  
15 money, including a share of the income tax that the local government unit is  
16 entitled to receive from the State; providing that ARRA bonds issued by the  
17 Board to local government units are not the debt, liability, or pledge of the full  
18 faith and credit or taxing power of the State; providing that this Act shall  
19 remain in effect until a certain contingency occurs but not later than a certain  
20 date; and generally relating to the issuance of bonds supported by the American  
21 Recovery and Reinvestment Act.

22 BY adding to

23 Article – State Finance and Procurement

24 Section 8–501 through 8–504 to be under the new subtitle “Subtitle 5. Bonds  
25 Supported by the Federal American Recovery and Reinvestment Act”

26 Annotated Code of Maryland

27 (2009 Replacement Volume)

28 Preamble

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.





1 OR OF A LOCAL GOVERNMENT UNIT THAT IS AUTHORIZED UNDER THE ACT AND  
2 ISSUED AND SOLD BY THE BOARD UNDER THIS SUBTITLE.

3 (D) "BOARD" MEANS THE BOARD OF PUBLIC WORKS.

4 (E) "LOCAL GOVERNMENT UNIT" MEANS A COUNTY, MUNICIPALITY, OR  
5 LOCAL EDUCATION AGENCY THAT HAS RECEIVED A BOND ALLOCATION UNDER  
6 THE ACT.

7 (F) "PROJECT" MEANS ANY IMPROVEMENT AUTHORIZED FOR  
8 FINANCING UNDER THE ACT THAT THE BOARD OR A LOCAL GOVERNMENT UNIT  
9 REQUESTING ARRA BOND ISSUANCE DETERMINES BY RESOLUTION TO FINANCE  
10 WITH ARRA BONDS.

11 8-502.

12 (A) BY RESOLUTION, THE BOARD MAY AUTHORIZE THE ISSUANCE OF  
13 ARRA BONDS AND PROVIDE FOR THE TERMS, CONDITIONS, SECURITY, SALE,  
14 DELIVERY, PAYMENT OF, AND ALL OTHER MATTERS PERTAINING TO THE ARRA  
15 BONDS.

16 (B) AT THE REQUEST OF ONE OR MORE LOCAL GOVERNMENT UNITS,  
17 THE BOARD MAY PROVIDE THAT ALL OR PART OF THE ARRA BONDS  
18 ALLOCATED TO THE STATE OR LOCAL GOVERNMENT UNITS BE COMBINED,  
19 CONSOLIDATED, AND SOLD AS A SINGLE ISSUE.

20 (C) THE BOARD SHALL PROVIDE THAT THE ARRA BONDS:

21 (1) BE IN ONE OR MORE SERIES;

22 (2) BEAR A CERTAIN DATE OF ISSUE;

23 (3) BE EXECUTED IN A CERTAIN MANNER;

24 (4) BE SOLD IN A CERTAIN MANNER AT A PUBLIC SALE OR AT A  
25 PRIVATE, NEGOTIATED SALE;

26 (5) BE IN CERTAIN DENOMINATIONS;

27 (6) MATURE IN CERTAIN AMOUNTS AT CERTAIN TIMES, BUT FOR  
28 STATE ALLOCATIONS OF ARRA BONDS, NOT LATER THAN 15 YEARS AFTER THE  
29 DATE OF ISSUE;

1           **(7) BEAR INTEREST, IF ANY, AT CERTAIN RATES;**

2           **(8) BE PAID, AS TO PRINCIPAL AND INTEREST, IF ANY, AT**  
3 **CERTAIN PLACES;**

4           **(9) BE IN REGISTERED FORM AND PROVIDE PROCEDURES FOR**  
5 **THE REGISTRATION AND TRANSFER OF THE ARRA BONDS; AND**

6           **(10) FUND RESERVES FOR PAYMENT OF PRINCIPAL AND INTEREST,**  
7 **IF ANY.**

8           **(D) WHEN THE BOARD PROVIDES FOR THE SALE OF ARRA BONDS, THE**  
9 **STATE TREASURER MAY:**

10           **(1) APPOINT ANY AGENT OR OTHER CONTRACTING PARTY,**  
11 **INCLUDING FINANCIAL ADVISORS, UNDERWRITERS, CORPORATE TRUSTEES,**  
12 **PAYING AGENTS, REGISTRARS, OR TRANSFER AGENTS;**

13           **(2) SPECIFY THE RIGHTS, DUTIES, AND COMPENSATION OF THE**  
14 **AGENTS;**

15           **(3) IN CONNECTION WITH THE ESTABLISHMENT AND**  
16 **MAINTENANCE OF A CENTRAL DEPOSITORY SYSTEM FOR THE TRANSFER OR**  
17 **PLEDGE OF THE ARRA BONDS, MAKE AGREEMENTS WITH:**

18                   **(I) CUSTODIAN BANKS AND THEIR NOMINEES; OR**

19                   **(II) FINANCIAL INTERMEDIARIES AND THEIR NOMINEES;**  
20 **AND**

21           **(4) ESTABLISH AND MAINTAIN ANY ACCOUNTS NECESSARY OR**  
22 **CONVENIENT FOR:**

23                   **(I) THE DEPOSIT, INVESTMENT, AND DISBURSEMENT OF**  
24 **ARRA BOND PROCEEDS; AND**

25                   **(II) THE COLLECTION, INVESTMENT, AND PAYMENT OF**  
26 **PRINCIPAL AND INTEREST, IF ANY, ON THE ARRA BONDS.**

27 **8-503.**

1           **(A) THE BOARD MAY ISSUE ARRA BONDS TO FINANCE STATE**  
2 **PROJECTS THAT HAVE BEEN AUTHORIZED BY SEPARATE STATE-ENABLING**  
3 **ACTS.**

4           **(B) IN ADDITION TO THE REQUIREMENTS OF THIS SUBTITLE AND THE**  
5 **ACT, ARRA BONDS ISSUED TO FINANCE STATE PROJECTS SHALL COMPLY WITH**  
6 **ALL APPLICABLE PROVISIONS OF §§ 8-117 THROUGH 8-124 OF THIS TITLE AND**  
7 **OF THE SPECIFIC PROJECT ENABLING ACTS.**

8           **(C) ARRA BONDS ISSUED TO FINANCE STATE PROJECTS SHALL BE THE**  
9 **DEBT OF THE STATE AND SHALL PLEDGE AS SECURITY FOR THE BONDS THE**  
10 **FULL FAITH AND CREDIT OF THE STATE, UNLESS A DIFFERENT SECURITY IS**  
11 **SPECIFIED IN THE ENABLING ACTS.**

12           **(D) THE BOARD MAY NOT ISSUE ANY ARRA BONDS FOR STATE**  
13 **PROJECTS IF THE BONDS WOULD QUALIFY AS PRIVATE ACTIVITY BONDS UNDER**  
14 **THE ACT AND THE INTERNAL REVENUE CODE.**

15 **8-504.**

16           **(A) THE BOARD MAY ISSUE ARRA BONDS ONLY ON BEHALF OF LOCAL**  
17 **GOVERNMENT UNITS, IF:**

18                   **(1) THE GOVERNING BODY OF THE LOCAL GOVERNMENT UNIT**  
19 **ADOPTS, AND THE CHIEF EXECUTIVE OFFICER, IF ANY, APPROVES AN**  
20 **ORDINANCE OR A RESOLUTION IN ACCORDANCE WITH ALL APPLICABLE LOCAL**  
21 **GOVERNING LAWS THAT REQUESTS AND AUTHORIZES THE BOARD TO ISSUE**  
22 **ARRA BONDS ON BEHALF OF THE LOCAL GOVERNMENT UNIT; AND**

23                   **(2) THE ORDINANCE OR RESOLUTION CONTAINS:**

24                           **(I) A DESCRIPTION OF THE LOCAL PROJECTS TO BE**  
25 **FINANCED WITH ARRA BONDS;**

26                           **(II) THE AUTHORITY FOR INCURRING A LOCAL DEBT**  
27 **OBLIGATION TO FINANCE THE LOCAL PROJECTS;**

28                           **(III) ANY TERMS AND CONDITIONS APPLICABLE TO THE**  
29 **LOCAL ARRA BONDS, INCLUDING THE AMOUNT, DENOMINATIONS, MANNER OF**  
30 **EXECUTION, MAXIMUM MATURITIES, AND THE PLACE, TIME, AND MANNER OF**  
31 **PAYMENT OF DEBT SERVICE;**

1                   **(IV) A DESCRIPTION OF THE TAXES OR SPECIAL REVENUES**  
2 **FROM WHICH THE PRINCIPAL AND INTEREST, IF ANY, ON THE LOCAL ARRA**  
3 **BONDS WILL BE PAID;**

4                   **(V) THE PLEDGE OF THE FULL FAITH AND CREDIT OF, OR A**  
5 **PLEDGE OF SPECIFIC REVENUES OF, THE LOCAL GOVERNMENT UNIT AS**  
6 **SECURITY FOR THE ARRA BONDS; AND**

7                   **(VI) ANY OTHER PROVISIONS CONSIDERED NECESSARY OR**  
8 **APPROPRIATE BY THE BOARD TO ENABLE THE ISSUANCE OF ARRA BONDS ON**  
9 **BEHALF OF THE LOCAL GOVERNMENT UNIT.**

10           **(B) NOTWITHSTANDING ANY OTHER PUBLIC GENERAL LAW, PUBLIC**  
11 **LOCAL LAW, CHARTER, OR ORDINANCE, TO ENHANCE THE SECURITY OR THE**  
12 **MARKETABILITY OF THE ARRA BONDS ISSUED BY THE BOARD ON BEHALF OF A**  
13 **LOCAL GOVERNMENT UNIT TO FINANCE LOCAL PROJECTS, A LOCAL**  
14 **GOVERNMENT UNIT MAY AGREE WITH THE BOARD TO PLEDGE ANY MONEY,**  
15 **INCLUDING A SHARE OF INCOME TAX THAT THE LOCAL GOVERNMENT UNIT IS**  
16 **ENTITLED TO RECEIVE FROM THE STATE.**

17           **(C) ARRA BONDS ISSUED BY THE BOARD ON BEHALF OF A LOCAL**  
18 **GOVERNMENT UNIT TO FINANCE LOCAL PROJECTS:**

19                   **(1) ARE NOT A DEBT, LIABILITY, OR PLEDGE OF THE FULL FAITH**  
20 **AND CREDIT OR TAXING POWER OF THE STATE OR OF ANY UNIT OF THE STATE;**

21                   **(2) ARE DEBT OBLIGATIONS OF THAT LOCAL GOVERNMENT UNIT**  
22 **AND ARE SECURED SOLELY BY THE FULL FAITH AND CREDIT OF THAT LOCAL**  
23 **GOVERNMENT UNIT OR BY OTHER SECURITY PLEDGED UNDER THE**  
24 **AUTHORIZING ORDINANCE OR RESOLUTION; AND**

25                   **(3) SHALL STATE ON THE FACE OF THE ARRA BOND THAT:**

26                           **(I) NEITHER THE STATE NOR ANY STATE UNIT IS OBLIGED**  
27 **TO PAY THE PRINCIPAL OF OR INTEREST, IF ANY, ON THE ARRA BOND; AND**

28                           **(II) NEITHER THE FULL FAITH AND CREDIT NOR THE**  
29 **TAXING POWER OF THE STATE OR ANY STATE UNIT IS PLEDGED TO THE**  
30 **PAYMENT OF THE PRINCIPAL OF OR INTEREST, IF ANY, ON THE ARRA BOND.**

31           **(D) THE BOARD MAY ISSUE ARRA BONDS ON BEHALF OF A LOCAL**  
32 **GOVERNMENT UNIT TO FINANCE LOCAL PROJECTS WHEN THE BONDS QUALIFY**

1 AS PRIVATE ACTIVITY BONDS UNDER ARRA AND THE INTERNAL REVENUE  
2 CODE, BUT ONLY IF THE AUTHORIZING ORDINANCE OR RESOLUTION:

3 (1) REQUESTS THE BOARD TO ISSUE PRIVATE ACTIVITY ARRA  
4 BONDS; AND

5 (2) SPECIFIES THE REVENUES TO BE GENERATED BY THE  
6 PRIVATE ACTIVITY PROJECT.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 June 1, 2010. It shall remain effective until the State and local government bond  
9 financing subsidies under the American Recovery and Reinvestment Act of 2009  
10 (ARRA), or any extension or renewal of ARRA, expire, but in any case not later than  
11 June 30, 2013, at which time, with no further action required by the General  
12 Assembly, this Act shall be abrogated and of no further force and effect.